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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF DELAWARE

3 - - - - -

4 ETHYPHARM S.A. FRANCE and :

5 ETHYPHARM S.A. SPAIN, :

6 Plaintiffs, :

7 VS. : CASE NO.

8 BENTLEY PHARMACEUTICALS, : 04-13000-SLR

9 INC., :

10 Defendant. :

11 - - - - -

12

13 VIDEOTAPED CONTINUED DEPOSITION OF ADOLFO

14 HERRERA, a witness called by and on behalf of

15 the Plaintiffs, taken pursuant to the applicable

16 provisions of the Federal Rules of Civil

17 Procedure, before Sandra L. Bray, Registered

18 Diplomate Reporter, CSR Number 103593, and

19 Notary Public in and for Commonwealth of

20 Massachusetts, at the offices of Edwards Angell

21 Palmer & Dodge LLP, 111 Huntington Avenue,

22 Boston, Massachusetts, on Friday, July 21, 2006,

23 commencing at 9:05 a.m.

24

<p style="text-align: right;">Page 70</p> <p>1 APPEARANCES:</p> <p>2 Representing the Plaintiffs:</p> <p>3 BAACH ROBINSON & LEWIS PLLC</p> <p>4 1201 F Street, NW</p> <p>5 Suite 500</p> <p>6 Washington, D.C. 20004</p> <p>7 BY: DWIGHT P. BOSTWICK, ESQUIRE</p> <p>8 JONATHAN D. FINE, ESQUIRE</p> <p>9</p> <p>10 Representing the Defendant:</p> <p>11 EDWARDS ANGELL PALMER & DODGE LLP</p> <p>12 111 Huntington Avenue</p> <p>13 Boston, Massachusetts 02199</p> <p>14 BY: CRAIG E. STEWART, ESQUIRE</p> <p>15</p> <p>16 Representing Laboratorios Belmac S.A.:</p> <p>17 IBERFORO</p> <p>18 28014 Madrid-CI</p> <p>19 Marques de Cubas, 6</p> <p>20 Madrid, Spain</p> <p>21 BY: REBECA CORRAL GREGORIO, ESQUIRE</p> <p>22 RAFAEL GARCIA-PALENCIA</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 72</p> <p>1 INDEX</p> <p>2 WITNESS: PAGE NO.</p> <p>3 ADOLFO HERRERA</p> <p>4 BY MR. BOSTWICK 75, 189</p> <p>5 BY MR. STEWART 181</p> <p>6</p> <p>7 EXHIBITS</p> <p>8 NO. DESCRIPTION PAGE NO.</p> <p>9 3 Document titled Acuerdo de</p> <p>10 9 Produccion 83</p> <p>11 104 Document titled Acuerdo de</p> <p>12 11 Produccion 83</p> <p>13 5 Document titled Production</p> <p>14 12 Agreement, dated 11-19-99 83</p> <p>15 136 Bentley Pharmaceuticals Board</p> <p>16 14 of Directors 7-29-98 Meeting</p> <p>17 157 Minutes 106</p> <p>18 16 Fax to Ms. Joannesse from</p> <p>19 8 Mr. Rodriguez, dated 4-8-99 112</p> <p>20 17 Letter to Mr. DeBregeas from</p> <p>21 189 Mr. Murphy, dated 4-9-99 114</p> <p>22 19 Letter from Mr. Herrera,</p> <p>23 10 dated 6-11-99 117</p> <p>24 10 Document titled Contrato de</p> <p>25 20 Fabricacion 119</p> <p>26 21 11 Document titled Carta de</p> <p>27 22 Compromiso de Compra and Other</p> <p>28 23 Documents 119</p> <p>29 12 Fax to Mr. Herrera from</p> <p>30 24 Mr. De Basilio, dated 12-5-00 128</p>
<p style="text-align: right;">Page 71</p> <p>1 ALSO PRESENT:</p> <p>2 Ivelissa I. Escalera, Translator</p> <p>3 Kristin Zarnetske, Videographer</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 73</p> <p>1 EXHIBITS, Continued</p> <p>2 NO. DESCRIPTION PAGE NO.</p> <p>3 13 Fax to Mr. Alvarez from</p> <p>4 Mr. Herrera, dated 10-31-00 136</p> <p>5 14 Fax to Mr. Murphy from</p> <p>6 15 Mr. Leduc, dated 6-8-01 141</p> <p>7 16 Fax to Mr. Murphy from</p> <p>8 Mr. Herrera, dated 6-15-02 147</p> <p>9 16 Confidentiality Agreement 152</p> <p>10 17 Press Release 154</p> <p>11 18 Letter from Ilhem Gadry to</p> <p>12 Mr. Herrera, dated 12-6-01,</p> <p>13 and Enclosure 155</p> <p>14 19 Side Letter 157</p> <p>15 20 Copy of E-mail from</p> <p>16 Mr. Fitzgibbons, dated</p> <p>17 1-22-02, and Attachment 165</p> <p>18 21 Document titled Contrato de</p> <p>19 15 Transferencia de Tecnologia y</p> <p>20 Cesion de Know How 166</p> <p>21 22 Letter Fax to Mr. Herrera from</p> <p>22 Mr. Leduc, dated 2-1-02 169</p> <p>23</p> <p>24</p>

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<p style="text-align: right;">Page 74</p> <p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: The time is</p> <p>3 9:05 a.m. on July 21st, 2006. This is Tape</p> <p>4 Number 1, Volume 2, the continued videotaped</p> <p>5 deposition of Mr. Adolfo Herrera.</p> <p>6 IVELISSA I. ESCALERA,</p> <p>7 a translator in the Commonwealth of</p> <p>8 Massachusetts, who, being by me previously first</p> <p>9 duly sworn to translate from the English</p> <p>10 language into the Spanish language and from the</p> <p>11 Spanish language into the English language,</p> <p>12 thereupon acted as translator for the witness</p> <p>13 herein; and</p> <p>14 ADOLFO HERRERA, having previously duly</p> <p>15 sworn or affirmed that his testimony would be</p> <p>16 the truth, the whole truth, and nothing but the</p> <p>17 truth, testified as follows:</p> <p>18 * * *</p> <p>19 CONTINUED EXAMINATION BY MR. BOSTWICK:</p> <p>20 Q. Mr. -- good morning.</p> <p>21 THE WITNESS: I would like one page.</p> <p>22 THE TRANSLATOR: Can you pass one of</p> <p>23 the notepads, please?</p> <p>24 MR. STEWART: Sorry. You need a piece</p>	<p style="text-align: right;">Page 76</p> <p>1 A. Correct.</p> <p>2 Q. If you could look at Exhibit 2 for a moment.</p> <p>3 I'm not sure if I asked you this question.</p> <p>4 There was an individual whose name is in the</p> <p>5 circle that you wrote on the left-hand side?</p> <p>6 A. Yes.</p> <p>7 Q. What is the name of that person?</p> <p>8 A. Alsina.</p> <p>9 Q. Can we spell that?</p> <p>10 A. A as in apple, L as in Larry, S as in Sam, I as</p> <p>11 in India, N as in Nancy, A as in apple.</p> <p>12 Q. And where was Alsincia -- Alsina from?</p> <p>13 A. Another pharmaceutical company.</p> <p>14 Q. Which company?</p> <p>15 A. Uquifa.</p> <p>16 Q. And that is spelled -- how is that spelled?</p> <p>17 A. U as in umbrella -- U Q U I F A.</p> <p>18 Q. And was Uquifa a client of Ethypharm's for the</p> <p>19 purchase of omeprazole during 1998?</p> <p>20 A. Yes.</p> <p>21 Q. Did Uquifa also purchase other products from</p> <p>22 Ethypharm that you know?</p> <p>23 A. No, and they also submit the prime material also</p> <p>24 too.</p>
<p style="text-align: right;">Page 75</p> <p>1 of paper so that you can make notes on?</p> <p>2 THE WITNESS: (Through translator):</p> <p>3 If he's asking me something and something comes</p> <p>4 to my mind and I just want to write it down as</p> <p>5 he's asking the question, he just want to have</p> <p>6 something to write it down so I don't forget if</p> <p>7 it's not objection.</p> <p>8 MR. BOSTWICK: It's not objectionable</p> <p>9 to me.</p> <p>10 MR. STEWART: Let me just -- let's</p> <p>11 just talk for a minute.</p> <p>12 MR. BOSTWICK: Go off the record.</p> <p>13 THE VIDEOGRAPHER: The time is</p> <p>14 9:06 a.m. We're off the record.</p> <p>15 (Recess)</p> <p>16 THE VIDEOGRAPHER: The time is</p> <p>17 9:09 a.m. We're back on the record.</p> <p>18 Q. Good morning, Mr. Herrera.</p> <p>19 A. (Through translator): Good morning to you too.</p> <p>20 Q. Yesterday, when we left off, you were talking</p> <p>21 about -- you had mentioned to me that you</p> <p>22 remembered three meetings that Murphy attended</p> <p>23 with Ethypharm. And do you recall we had been</p> <p>24 discussing an April 1998 meeting?</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. Do I understand that Uquifa also provided the</p> <p>2 raw material for the omeprazole product?</p> <p>3 A. Correct.</p> <p>4 Q. For the production of omeprazole at Laboratorios</p> <p>5 Belmac, correct?</p> <p>6 A. That was it, correct.</p> <p>7 Q. For Ethypharm?</p> <p>8 A. Yes.</p> <p>9 Q. I recall that you had indicated that the purpose</p> <p>10 of the April 1998 agreement was to try -- the</p> <p>11 1998 meeting with Ethypharm was to try to get a</p> <p>12 signed global agreement. Do you recall --</p> <p>13 MR. STEWART: Objection as to form.</p> <p>14 Q. Do you recall whether such an agreement was ever</p> <p>15 signed?</p> <p>16 MR. STEWART: Objection as to the</p> <p>17 premise on which the question is based and a</p> <p>18 matter of form.</p> <p>19 Q. Was -- let me ask the question. Was a global</p> <p>20 agreement between Ethypharm and Laboratorios</p> <p>21 Belmac or Bentley signed around 1998 as a result</p> <p>22 of the April meeting?</p> <p>23 A. No. We are always talking about Belmac Labs.</p> <p>24 Q. Is -- was there any agreement signed as a result</p>

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<p style="text-align: right;">Page 78</p> <p>1 of the April 1998 meeting?</p> <p>2 A. No.</p> <p>3 Q. So there was no written document, correct?</p> <p>4 A. No.</p> <p>5 Q. Did you have further discussions with Ethypharm</p> <p>6 representatives following that April 1998</p> <p>7 meeting about a signed contract?</p> <p>8 MR. STEWART: Objection. With whom?</p> <p>9 Q. With Ethypharm representatives.</p> <p>10 A. I would like a clarification. Are we talking</p> <p>11 about this agreement?</p> <p>12 Q. Yes. After your April 1998 meeting, correct,</p> <p>13 did you have discussions in the summer or the</p> <p>14 fall of 1998 with Ethypharm representatives to</p> <p>15 try to sign an agreement with Ethypharm?</p> <p>16 A. We did have meetings, but none in specific to</p> <p>17 this agreement, to the signing of this</p> <p>18 agreement.</p> <p>19 Q. How about the types of drafts -- the drafts that</p> <p>20 are attached to Exhibit 2? Did you have</p> <p>21 discussions with Ethypharm representatives about</p> <p>22 those drafts following the 1998 meeting?</p> <p>23 A. I could have had some meeting because usually I</p> <p>24 had meetings with Adolfo de Basilio.</p>	<p style="text-align: right;">Page 80</p> <p>1 meeting in April of 1998 to make sure we've</p> <p>2 completed our discussion of that topic, okay?</p> <p>3 A. Very good.</p> <p>4 Q. The drafts in Exhibit 2, do you have any</p> <p>5 specific memory of discussing those drafts with</p> <p>6 Adolfo de Basilio?</p> <p>7 A. Yes.</p> <p>8 Q. What do you recall about those discussions?</p> <p>9 A. What I remember is that when I took a look at</p> <p>10 this contract, it did not reflect the reality,</p> <p>11 the real situation, and for that reason -- and</p> <p>12 for that reason, they were requiring from us</p> <p>13 information of our product and our manufacturing</p> <p>14 method and with our formulations, and that gave</p> <p>15 place (sic) to the signed of the contract that</p> <p>16 was signed in September 1998 of confidentiality</p> <p>17 in which we gave them our know-how.</p> <p>18 Q. Do you recall -- is that all you can recall</p> <p>19 about the discussions regarding these specific</p> <p>20 contracts in Exhibit 2?</p> <p>21 A. Yes, because I told him that this contract to me</p> <p>22 was not acceptable.</p> <p>23 Q. Can you recall why, what provisions were not</p> <p>24 acceptable?</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. As you sit here today, do you recall any of</p> <p>2 those meetings or discussions?</p> <p>3 A. Yes.</p> <p>4 Q. You recall discussing these drafts in Exhibit 2</p> <p>5 with Mr. De Basilio?</p> <p>6 A. Not exactly with this draft, but in part of</p> <p>7 another agreement that was also signed -- that</p> <p>8 it was signed in 1998.</p> <p>9 Q. Okay. What agreement are you talking about?</p> <p>10 A. In the one that we transmitted to them in the</p> <p>11 month of September, and they signed the</p> <p>12 correspondent confidentiality agreement. They</p> <p>13 compromised themselves to save --</p> <p>14 THE WITNESS: To keep.</p> <p>15 A. -- to keep the confidentiality about our</p> <p>16 manufacturing methods and analytical methods</p> <p>17 with its correspondent validations, and the</p> <p>18 phrase that defined that agreement of</p> <p>19 confidentiality is the same phrase that it was</p> <p>20 in the contract that they send to us in</p> <p>21 September of 1997.</p> <p>22 Q. In September of 1997 or '98?</p> <p>23 A. 1997.</p> <p>24 Q. Okay. As to -- I just want to refer to the</p>	<p style="text-align: right;">Page 81</p> <p>1 A. In specific, everything that referred to the</p> <p>2 know-how.</p> <p>3 Q. Can you point me to what you're talking about?</p> <p>4 A. I have to read it.</p> <p>5 Q. Okay.</p> <p>6 A. As an example, Number 12. Yes, Number 12 on</p> <p>7 Page 5.</p> <p>8 Q. What's wrong with that -- what did you find</p> <p>9 objectionable about that portion of the</p> <p>10 document?</p> <p>11 A. The definition of the know-how by Ethypharm</p> <p>12 communicated to Laboratorios Belmac. The same</p> <p>13 as this letter at the front of the second page</p> <p>14 that came with -- in which a certification is</p> <p>15 pretended of the recognition of the know-how.</p> <p>16 Q. Hadn't Belmac signed many, many documents with</p> <p>17 those same provisions before this?</p> <p>18 A. In terms of specific contracts with Ethypharm?</p> <p>19 Q. Yes.</p> <p>20 A. As far as I'm aware, no. At least during my</p> <p>21 tenure as general director, no.</p> <p>22 Q. Are you aware of -- are you aware that there</p> <p>23 were a number of signed confidentiality</p> <p>24 agreements from Laboratorios Belmac that clearly</p>

4 (Pages 78 to 81)

<p style="text-align: right;">Page 82</p> <p>1 stated that the know-how was -- were clearly the</p> <p>2 property of Ethypharm?</p> <p>3 MR. STEWART: Objection. The topics</p> <p>4 that Mr. Bostwick is now getting into are the</p> <p>5 substance of what is properly the subject of</p> <p>6 Phase 2 discovery. I realize in terms of the</p> <p>7 issues of agency, we can't always divorce the</p> <p>8 substance of the topics from the issue of</p> <p>9 agency. However, I think at this point we are</p> <p>10 now getting into examination pertaining to the</p> <p>11 details of that subject. And so I think it's --</p> <p>12 we are at the point now where we're going beyond</p> <p>13 the scope of Phase 1 discovery.</p> <p>14 MR. BOSTWICK: I'm going to ask a few</p> <p>15 more questions in the area, simply because it's</p> <p>16 not me who raised it. It was Mr. Herrera.</p> <p>17 MR. STEWART: It doesn't matter</p> <p>18 whether Mr. Herrera raised it. What matters is</p> <p>19 if you're going to pursue it.</p> <p>20 MR. BOSTWICK: I'm going to pursue it</p> <p>21 if I can find -- tell you what. Let's go off</p> <p>22 the record for just a moment.</p> <p>23 THE VIDEOGRAPHER: The time is</p> <p>24 9:27 a.m. We're going off the record.</p>	<p style="text-align: right;">Page 84</p> <p>1 Mr. Bostwick invited that discussion.</p> <p>2 Mr. Herrera responded as to the areas that he</p> <p>3 considered to be objectionable. Mr. Bostwick</p> <p>4 then responded to ask Mr. Herrera questions</p> <p>5 pertaining to that particular issue.</p> <p>6 MR. BOSTWICK: This is a classic</p> <p>7 speaking objection. The record stands for</p> <p>8 itself. We don't need --</p> <p>9 MR. STEWART: It is a speaking</p> <p>10 objection. You did not pose a question to</p> <p>11 Mr. Herrera.</p> <p>12 MR. BOSTWICK: Not yet.</p> <p>13 MR. STEWART: You made a speech. Now</p> <p>14 I'm making a speech. I'm putting on the record</p> <p>15 that your speech is not accurate.</p> <p>16 MR. BOSTWICK: The record speaks for</p> <p>17 itself.</p> <p>18 MR. STEWART: Yes, but the record, as</p> <p>19 one judge used to say, is not wired for sound at</p> <p>20 this particular time. So I'm going on record</p> <p>21 that the foundation for this question that you</p> <p>22 provided is wrong, that you are getting into the</p> <p>23 substance of the -- the substance of the alleged</p> <p>24 misappropriation of trade secrets and whose</p>
<p style="text-align: right;">Page 83</p> <p>1 (Recess)</p> <p>2 MR. BOSTWICK: Let's mark this as 3.</p> <p>3 And what's the Bates stamp number?</p> <p>4 MR. STEWART: Belmac 006200.</p> <p>5 (Exhibits Numbers 3 - 5 were marked for</p> <p>6 identification.)</p> <p>7 THE VIDEOGRAPHER: The time is</p> <p>8 9:32 a.m. We're back on the record.</p> <p>9 Q. Mr. Herrera, because you've raised the issue of</p> <p>10 whether -- of signing confidentiality agreements</p> <p>11 relating to know-how and because you have</p> <p>12 discussed your problems with Article 12, the</p> <p>13 confidentiality provision, in Exhibit 2, I want</p> <p>14 to make sure we have a clear record on this</p> <p>15 point.</p> <p>16 MR. STEWART: Objection. In the first</p> <p>17 place, this issue was put in -- was put on the</p> <p>18 table by Mr. Bostwick's questions with respect</p> <p>19 to the agreement attached to Exhibit 2. Then he</p> <p>20 called on Mr. Herrera to go through the</p> <p>21 agreement and find places where Mr. Herrera</p> <p>22 objected, that this was not the reality of the</p> <p>23 situation as he understood it at the time that</p> <p>24 Mr. De Basilio was asking to sign the agreement.</p>	<p style="text-align: right;">Page 85</p> <p>1 technology is whose. You are the one who</p> <p>2 acidulously made sure that we not inquire into</p> <p>3 the nature of that technology. I'm not going to</p> <p>4 permit you to get into the details of this</p> <p>5 subject with this witness.</p> <p>6 MR. BOSTWICK: Why don't you listen to</p> <p>7 my question, see if you have an objection to it.</p> <p>8 MR. STEWART: I already had an</p> <p>9 objection to the speech. Now, I'll listen to</p> <p>10 the question.</p> <p>11 Q. Mr. Herrera, you testified, I believe, that you</p> <p>12 did not know of agreements that were signed</p> <p>13 which indicated that know-how was Ethypharm's</p> <p>14 property, and I'm specifically talking about the</p> <p>15 know-how related to omeprazole. And here's my</p> <p>16 question. I'm putting in front of you three</p> <p>17 exhibits, Exhibit 3, 4, and 5. And don't those</p> <p>18 documents clearly say that Laboratorios Belmac</p> <p>19 is manufacturing omeprazole with the patents and</p> <p>20 technology of Ethypharm?</p> <p>21 MR. STEWART: Objection to the</p> <p>22 characterization of Mr. Herrera's testimony.</p> <p>23 Objection to the length of the question, which</p> <p>24 assumes facts not in evidence. Objection to the</p>

5 (Pages 82 to 85)

<p style="text-align: right;">Page 86</p> <p>1 form.</p> <p>2 Q. You can answer.</p> <p>3 A. Thank you. The first document, which is Exhibit</p> <p>4 Number 3, is not my signature. I had not</p> <p>5 started at the company yet. And as I can see,</p> <p>6 it has been signed by the prior general</p> <p>7 director, and it talks about patent and</p> <p>8 technology of Ethypharm.</p> <p>9 Q. Exhibit 4.</p> <p>10 A. The second document, Exhibit 4, is signed by the</p> <p>11 prior general director, and it doesn't talk</p> <p>12 about patents.</p> <p>13 Q. It just talks about the technology of Ethypharm,</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. And that the microgranulars technology relating</p> <p>17 to omeprazole is Ethypharm's technology,</p> <p>18 correct?</p> <p>19 MR. STEWART: Objection. And we have</p> <p>20 not been given -- counsel at least on this side</p> <p>21 of the table have not been given English</p> <p>22 translations of the document. So Mr. Bostwick</p> <p>23 may have an English translation. He's not</p> <p>24 provided me with one, and our agreement with</p>	<p style="text-align: right;">Page 88</p> <p>1 the pellets of omeprazole are manufactured with</p> <p>2 the technology of Ethypharm, correct?</p> <p>3 A. Yes, not with the know-how.</p> <p>4 Q. This document is signed by you while you're</p> <p>5 general manager, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Now, I'm going to respect our agreement and our</p> <p>8 clarification before, and I'm not going to ask</p> <p>9 you questions about the distinctions between the</p> <p>10 technology and know-how and patents at this</p> <p>11 juncture. That will come at a later time. But</p> <p>12 I just want to make it clear on this record</p> <p>13 today that you and many other individuals at</p> <p>14 Laboratorios Belmac did sign agreements</p> <p>15 indicating that the pellets of omeprazole were</p> <p>16 manufactured with the technology of Ethypharm,</p> <p>17 correct?</p> <p>18 MR. STEWART: Objection.</p> <p>19 A. What it says here is that they were manufactured</p> <p>20 with Ethypharm's technology, but it doesn't make</p> <p>21 any relation to the know-how, which is something</p> <p>22 completely different.</p> <p>23 Q. Well, if you want to keep answering the question</p> <p>24 that way, I'll continue and go down that path.</p>
<p style="text-align: right;">Page 87</p> <p>1 respect to the conduct of these depositions</p> <p>2 require that for documents not in native</p> <p>3 language that we be provided with English</p> <p>4 translations.</p> <p>5 MR. BOSTWICK: That's fair. Let me</p> <p>6 just have the translator translate Article 2.</p> <p>7 Can you translate Article 2 for me, please, for</p> <p>8 Mr. Stewart?</p> <p>9 THE TRANSLATOR: "By the indication of</p> <p>10 PharmAlliance, the microgranules will be</p> <p>11 manufactured by Belmac Laboratories, applying</p> <p>12 the Ethypharm S.A. technology."</p> <p>13 Q. Is that a correct statement?</p> <p>14 A. Yes.</p> <p>15 Q. And that document was signed by the acting</p> <p>16 general director in 1997, correct?</p> <p>17 A. Yes.</p> <p>18 Q. How about Exhibit 5? And that's in English. Do</p> <p>19 you need the translator to read you Article 1 in</p> <p>20 Spanish?</p> <p>21 A. No.</p> <p>22 Q. You understand it in English?</p> <p>23 A. Yes.</p> <p>24 Q. And this indicates clearly, does it not, that</p>	<p style="text-align: right;">Page 89</p> <p>1 MR. STEWART: Objection, objection.</p> <p>2 That's a speech. That's not a question.</p> <p>3 MR. BOSTWICK: Here comes --</p> <p>4 Q. But if you want your lawyer to instruct you to</p> <p>5 answer my specific question, then I'll close off</p> <p>6 my area of questioning. And my question is that</p> <p>7 you are aware as Belmac's general manager that</p> <p>8 there are dozens of agreements signed by</p> <p>9 Laboratorios Belmac over the years that indicate</p> <p>10 that the technology that is used to manufacture</p> <p>11 omeprazole is Ethypharm's property, correct?</p> <p>12 MR. STEWART: Objection. The question</p> <p>13 now expands to a multiplicity of documents that</p> <p>14 this witness may or may not have seen. You are</p> <p>15 doing precisely what you promised that you would</p> <p>16 not do, namely, you are asking an argumentative</p> <p>17 question with respect to -- with respect to</p> <p>18 documents and with respect to an area, namely,</p> <p>19 the alleged misappropriation of trade secrets</p> <p>20 that are reserved to Phase 2 of discovery. This</p> <p>21 witness has answered your question with respect</p> <p>22 to the document you put before him. He agreed</p> <p>23 with you that this was signed and it was with</p> <p>24 respect to the technology. You didn't like the</p>

6 (Pages 86 to 89)

<p style="text-align: right;">Page 90</p> <p>1 answer, and now you want to get a different 2 answer; and I'm going to instruct this witness 3 not to answer that question on the grounds that 4 you have -- that you are exceeding the bounds of 5 Phase 1 discovery. And you are free to do 6 whatever you want with respect to this issue. 7 Q. All right. Let me ask a question, and it's a 8 yes-or-no question. In your position as general 9 manager of Laboratorios Belmac, you are 10 responsible for knowing about the agreements 11 that Laboratorios Belmac signs; aren't you? 12 MR. STEWART: Time? 13 Q. At all times. 14 A. Correct. 15 Q. And you were aware while you were general 16 manager of Belmac that Laboratorios Belmac had 17 signed numerous documents like Exhibit 3, 18 Exhibit 4, and Exhibit 5, right? 19 MR. STEWART: Objection. 20 A. Documents signed by the numerous general 21 directors with other companies, not with 22 Ethypharm, for marketing relations. 23 Q. Okay. Were you aware that documents, such as 24 Exhibits 3, 4, and 5, stating that the</p>	<p style="text-align: right;">Page 92</p> <p>1 MR. STEWART: How is this 2 argumentative question relating to whether -- 3 relating to whether this witness has facts 4 relevant to whether Laboratorios Belmac was 5 acting as an agent for Bentley? 6 MR. BOSTWICK: What's the grounds for 7 your objection? 8 MR. STEWART: The grounds for the 9 objection is it exceeds the scope of discovery 10 on Phase 1. 11 MR. BOSTWICK: All right. Why don't 12 you read back the question, please? And you can 13 either instruct him not to answer or you can 14 preserve that objection, but I, quite frankly, 15 don't understand it. 16 (Reporter read back the last question.) 17 MR. STEWART: I preserve my objection. 18 You may answer the question. 19 A. No. Belmac Laboratories was making money. 20 Ethypharm Laboratories were making money. 21 Q. Bentley was making no money out of the Ethypharm 22 relationship with Belmac? Is that your 23 testimony? 24 A. Once again, I would like to emphasize the</p>
<p style="text-align: right;">Page 91</p> <p>1 omeprazole pellets were manufactured with the 2 technology of Ethypharm were signed on dozens of 3 occasions by Laboratorios Belmac employees while 4 you were general manager? 5 MR. STEWART: Objection. 6 A. Yes, due to marketing issues at a specific 7 moment or times, trying to help Ethypharm. 8 Q. Well, you were making -- Laboratorios Belmac was 9 making a lot of money as well, correct, under 10 this arrangement? 11 A. They were making money, just as Ethypharm's 12 labs. 13 Q. Laboratorios Belmac was making money, Bentley 14 was making money, and Ethypharm was making 15 money, correct? 16 MR. STEWART: Objection. I instruct 17 the witness not to answer. This is 18 argumentative, and you've now been at this now 19 for the last half an hour with respect to a 20 topic that has nothing to do with agency. 21 MR. BOSTWICK: I've just included 22 Bentley in my question. We're talking about 23 money that was made in omeprazole. How is not 24 related to agency?</p>	<p style="text-align: right;">Page 93</p> <p>1 relationships between Ethypharm and Laboratorios 2 Belmac is based on Spanish companies, not with 3 Bentley. 4 Q. Did Bentley make money off of the arrangement 5 between Ethypharm and Laboratorios Belmac? 6 MR. STEWART: At what time? 7 Q. While you were general manager. 8 A. We are 100 percent subsidiary of Bentley 9 Pharmaceuticals. 10 Q. So the answer is yes? 11 A. The answer is that if we are 100 percent 12 subsidiary of Bentley, then the finance will be 13 consolidated under the parent company. 14 Q. Okay. Turning back to Exhibit 3, is Leciva -- 15 strike that. Prior to the termination of the 16 relationship with Ethypharm in 2001 -- in 2002, 17 was Leciva a customer and client of Ethypharm's? 18 A. Yes. 19 Q. In Exhibit 4, prior to the termination of the 20 relationship with Ethypharm in 2002, was 21 PharmAlliance a client and customer of 22 Ethypharm? 23 A. It was a client of Ethypharm. 24 Q. For omeprazole?</p>

7 (Pages 90 to 93)

<p style="text-align: right;">Page 94</p> <p>1 A. Yes.</p> <p>2 Q. And Exhibit 5 -- I'm sorry. We've already asked</p> <p>3 about Exhibit 5. Pardon me. Can you tell me</p> <p>4 anything else about Exhibit 2 -- the draft</p> <p>5 agreement in Exhibit 2 that was objectionable to</p> <p>6 you around the time of April to September of</p> <p>7 1998?</p> <p>8 A. I was not in agreement with the same issues</p> <p>9 always, the topic of the know-how.</p> <p>10 Q. Did you have discussions about the draft in</p> <p>11 Exhibit 2 with Mr. Murphy?</p> <p>12 MR. STEWART: Which draft?</p> <p>13 Q. Either of the drafts in Exhibit 2.</p> <p>14 A. By phone, we probably spoke with my own general</p> <p>15 director at the time, Clemente Gonzalez Azpetia.</p> <p>16 Q. Did you speak -- I didn't understand that</p> <p>17 answer. Did you and Mr. Gonzalez speak with</p> <p>18 Mr. Murphy about the draft contracts in</p> <p>19 Exhibit 2?</p> <p>20 A. And Mr. Berenguer, yes, by phone.</p> <p>21 Q. You spoke with Mr. Murphy?</p> <p>22 A. As Belmac's president.</p> <p>23 Q. So you spoke with Mr. Murphy about the</p> <p>24 contracts -- the draft contracts in Exhibit 2</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. You had mentioned that there were three</p> <p>2 meetings, I believe, where Mr. Murphy was</p> <p>3 present with Ethypharm representatives.</p> <p>4 A. Yes.</p> <p>5 Q. And we've talked about one in or around April</p> <p>6 1998.</p> <p>7 A. Yes, that's correct.</p> <p>8 Q. Can you tell me about the second meeting?</p> <p>9 A. Yes.</p> <p>10 Q. Please do.</p> <p>11 A. If I remember correctly, it was with the change</p> <p>12 of general directors of Ethypharm France --</p> <p>13 general manager.</p> <p>14 Q. Do you remember who the new general manager was?</p> <p>15 A. Pierre Germain.</p> <p>16 Q. That's Pierre Germain?</p> <p>17 THE WITNESS: Pierre Germain.</p> <p>18 Q. And for the record, is that G E R M A I N?</p> <p>19 A. Yes.</p> <p>20 Q. Do you recall the date of that meeting?</p> <p>21 A. It was around the time that the contracts were</p> <p>22 signed for omeprazole -- for the manufacturing</p> <p>23 of omeprazole, the submitted letters of</p> <p>24 omeprazole, and the signing of contracts of</p>
<p style="text-align: right;">Page 95</p> <p>1 along with Clemente Gonzalez and Mr. Berenguer,</p> <p>2 correct?</p> <p>3 A. Yes, that's how I remember it.</p> <p>4 Q. Did you do that on one occasion or more than one</p> <p>5 occasion?</p> <p>6 A. On one occasion.</p> <p>7 Q. Tell me what you recall about that telephone</p> <p>8 conversation.</p> <p>9 A. That we were like -- just like always, that this</p> <p>10 contract was not acceptable.</p> <p>11 Q. Do you recall the specifics of those</p> <p>12 conversations at all?</p> <p>13 A. That's just what I remember honestly.</p> <p>14 Q. So you don't remember anything else, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Do you recall whether Mr. Murphy provided any</p> <p>17 suggestions or comments about this draft?</p> <p>18 A. No.</p> <p>19 Q. Is your answer that you don't recall or that he</p> <p>20 didn't?</p> <p>21 A. What I remember is that he made no comment.</p> <p>22 Q. Did Mr. Murphy ever provide comments or advice</p> <p>23 on drafts of contracts from Ethypharm?</p> <p>24 A. That I remember, no.</p>	<p style="text-align: right;">Page 97</p> <p>1 aspirin, Vincamine, Indometicin, and there was</p> <p>2 one more, but I don't remember the other one. I</p> <p>3 don't remember any more.</p> <p>4 Q. Who was present at this meeting?</p> <p>5 A. It wasn't exactly a meeting. It was a dinner --</p> <p>6 THE TRANSLATOR: I'm sorry.</p> <p>7 A. -- a meal at the restaurant that is next to</p> <p>8 Ethypharm.</p> <p>9 Q. And who attended this meal?</p> <p>10 A. From Belmac Laboratories, Jim Murphy and myself,</p> <p>11 and from Ethypharm Labs, Pierre Germain, Adolfo</p> <p>12 de Basilio. I'm not sure if Yves Liorzou was</p> <p>13 present, and I don't remember if there was</p> <p>14 anyone else.</p> <p>15 Q. Do you recall if Gerard Leduc was present at</p> <p>16 that meeting?</p> <p>17 A. No, he wasn't.</p> <p>18 Q. Did you all sit at one table for this meal?</p> <p>19 A. Yes, as I remember, yes.</p> <p>20 Q. Do you ever recall going to Ethypharm and going</p> <p>21 out to a meal at a restaurant and sitting at</p> <p>22 different tables?</p> <p>23 A. What meeting are we talking about?</p> <p>24 Q. Any meeting.</p>

8 (Pages 94 to 97)

<p style="text-align: right;">Page 98</p> <p>1 A. There was one. I think it was the third 2 meeting, which we went to Paris, and that was 3 towards the end of the year 2000. And Jim, 4 myself were meeting with Pierre Germain, and 5 later on, we went to eat. And it could be that 6 at that one Gerard Deluc was present. 7 Q. Leduc. 8 THE TRANSLATOR: Leduc. 9 A. That's what I remember. 10 Q. So let's go back to the second meeting -- or the 11 second meal, the one in France with Jim Murphy, 12 Pierre Germain, Adolfo de Basilio, and Yves 13 Liorzou. Do you recall what was discussed at 14 that meal? 15 A. It was like making contact, you know, with all 16 of us because Mr. Germain had just begun as 17 general manager of Ethypharm France. 18 Q. Do you recall any specifics of that discussion? 19 A. When someone new comes into a company, what has 20 been tried to do is to introduce this new person 21 that just started at the company. We talk about 22 our relationships and that our relationships 23 were formalized because we had signed some 24 contracts approximately about ten, fifteen days</p>	<p style="text-align: right;">Page 100</p> <p>1 taken? 2 A. That I remember, no. We just talked about 3 incrementing the collaboration of both 4 companies. 5 Q. And the companies you're talking about are? 6 A. Belmac and Ethypharm. 7 Q. How about the last meeting that you recall 8 toward the end of 2000? Please tell me about 9 that meeting. 10 A. I remember that Jim Murphy and I arrived, and we 11 went to see Pierre Germain. And Pierre 12 commented that he couldn't get clearly to 13 understand the intentions of his bosses, and his 14 bosses were Gerard Deluc -- 15 Q. Leduc. 16 A. -- Leduc and Patrice DeBregeas. 17 Q. DeBregeas. Continue. 18 A. We were commenting that the relationship among 19 both companies from the business standpoint, 20 they were satisfactory, but in reality, the 21 Ethypharm business, it was directed by us, not 22 by Ethypharm Spain, by which I was thinking and 23 analyzing to have an agreement with Belmac 24 Laboratories to offer to them their clients from</p>
<p style="text-align: right;">Page 99</p> <p>1 prior to his arrival which had formalized the 2 relationship between the two companies. 3 Q. Did you talk about those contracts at that 4 meeting? 5 A. Not in specific about the contracts, about the 6 content of the contract. We talk about that our 7 relationship had been formalized and that we had 8 this contract signed and that we had to continue 9 our collaborations so we will become stronger 10 together. It was a meal with good intentions 11 and good relations. 12 Q. Do you remember anything else about what was 13 said at that meeting? 14 A. You know, some logistics, you know, of supplying 15 or productions, you know, but nothing in 16 specific. 17 Q. Is that all you can recall about that meal? 18 A. That's what I can remember. 19 Q. How about the third -- strike that. Was there 20 anything that was going to happen after that 21 second -- after that meeting or that meal that 22 you were just talking about? 23 MR. STEWART: Objection, vague. 24 Q. Was there any action plan, any action to be</p>	<p style="text-align: right;">Page 101</p> <p>1 the marketing standpoint and arrive to a 2 financial agreement and close Ethypharm Spain. 3 Q. Okay. Let me make sure that I understand. You 4 and Jim Murphy came to the offices of Ethypharm 5 in France, correct? 6 A. Correct. 7 Q. And you told Mr. Germain of an idea that 8 Laboratorios Belmac could take over the 9 operations of Ethypharm Spain; is that correct? 10 Isn't that correct? 11 A. No, that's not correct. 12 Q. Can you explain it to me again? 13 A. Yes, of course. Pierre Germain explained to Jim 14 Murphy and I that he doesn't understand clearly 15 why Ethypharm Spain is opened, that he was 16 thinking of close the company in Spain, just 17 eliminate all the overhead and arrive to a 18 marketing agreement to transfer his clients to 19 us -- 20 THE TRANSLATOR: Excuse me, not 21 marketing agreement, commercial agreement. 22 Q. A commercial agreement to transfer the clients 23 to Laboratorios Belmac? 24 A. Exactly.</p>

9 (Pages 98 to 101)

<p style="text-align: right;">Page 102</p> <p>1 Q. And was that an agreement where -- strike that.</p> <p>2 Was that an idea that included Laboratorios</p> <p>3 Belmac paying something to Ethypharm for the</p> <p>4 transfer of the clients to Belmac?</p> <p>5 A. Not exactly a pay, but it was more of like a</p> <p>6 payment. For example, you know, I transfer</p> <p>7 these clients to you and when you sell stuff,</p> <p>8 then I get like a commission.</p> <p>9 Q. So, in other words, if you sold the omeprazole</p> <p>10 product, Ethypharm would get a commission from</p> <p>11 Laboratorios Belmac?</p> <p>12 THE TRANSLATOR: What was the product?</p> <p>13 I'm sorry.</p> <p>14 MR. BOSTWICK: Omeprazole.</p> <p>15 A. Yes.</p> <p>16 Q. Did I understand you to say that he didn't</p> <p>17 understand -- Mr. Germain didn't understand</p> <p>18 Mr. DeBregeas' and Mr. Leduc's position on this</p> <p>19 issue?</p> <p>20 A. I didn't say that. What I said was that</p> <p>21 Mr. Germain commented to us that his</p> <p>22 relationship or his ability to understand his</p> <p>23 bosses, it was complicated. It was as a general</p> <p>24 comment within a conversation, not specifically</p>	<p style="text-align: right;">Page 104</p> <p>1 could have been that I was having a meal with</p> <p>2 Adolfo de Basilio and that Jim was sitting with</p> <p>3 Germain and Leduc because that's what I</p> <p>4 remember. I just remember having a meal with de</p> <p>5 Basilio.</p> <p>6 Q. Do you recall being upset about not being</p> <p>7 invited to sit with the bosses?</p> <p>8 A. No. It was a very small restaurant with very</p> <p>9 small tables. When I have gone to Ethypharm</p> <p>10 France, we have always gone to the same place,</p> <p>11 which is right at the corner, and the tables are</p> <p>12 tiny, tiny, tiny. I imagine that you have been</p> <p>13 in France and are aware, familiar with how the</p> <p>14 restaurants are set up.</p> <p>15 Q. Do you recall any discussions that you had at</p> <p>16 the restaurant with Mr. De Basilio?</p> <p>17 A. You know, talking about nonimportant stuff, you</p> <p>18 know.</p> <p>19 Q. Was one of the words --</p> <p>20 A. Trivial means not important, about the family,</p> <p>21 you know, those types of things that are not</p> <p>22 important.</p> <p>23 Q. To some people, they are.</p> <p>24 MR. STEWART: Not with respect to</p>
<p style="text-align: right;">Page 103</p> <p>1 related to this topic.</p> <p>2 Q. How did you and Mr. Murphy respond to the idea</p> <p>3 that Mr. Germain set forth to you?</p> <p>4 A. That we could get to an agreement in respect to</p> <p>5 those issues.</p> <p>6 Q. Okay. Do you recall anything else that you</p> <p>7 spoke about with Mr. Germain before going to</p> <p>8 lunch or for your meal?</p> <p>9 A. No, because I was, you know, walking around</p> <p>10 Ethypharm. I don't remember clearly if Adolfo</p> <p>11 de Basilio was also there, but I know other</p> <p>12 people in Ethypharm. So I was just saying hi to</p> <p>13 some people.</p> <p>14 Q. You ultimately went out to a meal, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Who went to the meal?</p> <p>17 A. In addition to myself and Mr. Murphy, Germain,</p> <p>18 of course, came along. I'm not sure if Leduc</p> <p>19 came and de Basilio came, and maybe other people</p> <p>20 did come.</p> <p>21 Q. Do you remember whether one group sat at one</p> <p>22 table and another group of people sat at another</p> <p>23 table?</p> <p>24 A. It could have been that I was sitting -- it</p>	<p style="text-align: right;">Page 105</p> <p>1 business.</p> <p>2 Q. Do you recall -- did Mr. Murphy ever tell you</p> <p>3 what subjects were discussed at his table?</p> <p>4 A. We left together. He commented to me that they</p> <p>5 had spoken about drug delivery technology, which</p> <p>6 is technology of Bentley Pharmaceuticals.</p> <p>7 Q. Drug delivery technologies?</p> <p>8 THE TRANSLATOR: Drug delivery</p> <p>9 technologies.</p> <p>10 Q. Is that correct?</p> <p>11 A. This is correct, yes.</p> <p>12 Q. Do you recall that Mr. Murphy told you they</p> <p>13 discussed issues relating to Laboratorios Belmac</p> <p>14 at the table with the bosses?</p> <p>15 A. No, I don't remember.</p> <p>16 MR. STEWART: Is this a good time to</p> <p>17 take a break?</p> <p>18 MR. BOSTWICK: Yes, that is a good</p> <p>19 break. Thank you for the suggestion.</p> <p>20 THE VIDEOGRAPHER: The time is</p> <p>21 10:27 a.m. on July 21st, 2006. This is the end</p> <p>22 of Tape Number 1, Volume 2 of the videotaped</p> <p>23 deposition of Mr. Adolfo Herrera.</p> <p>24 (Recess)</p>

10 (Pages 102 to 105)

<p style="text-align: right;">Page 106</p> <p>1 THE VIDEOGRAPHER: The time is</p> <p>2 10:49 a.m. on July 21st, 2006. This is Tape</p> <p>3 Number 2, Volume 2 of the videotaped deposition</p> <p>4 of Mr. Adolfo Herrera.</p> <p>5 Q. Welcome back.</p> <p>6 A. Thank you.</p> <p>7 Q. I'm going to show you a document which I believe</p> <p>8 will be marked Exhibit 6.</p> <p>9 (Bentley Pharmaceuticals Board of</p> <p>10 Directors July 29, 1998 Meeting Minutes</p> <p>11 was marked Exhibit Number 6 for</p> <p>12 identification.)</p> <p>13 Q. Do you -- have you ever seen minutes of the</p> <p>14 board of directors of Bentley Pharmaceuticals?</p> <p>15 MR. STEWART: You mean outside of the</p> <p>16 preparation for this deposition, if any?</p> <p>17 MR. BOSTWICK: Outside the preparation</p> <p>18 for this deposition, exactly, if any.</p> <p>19 A. Never.</p> <p>20 Q. So even as a vice president of Bentley, you've</p> <p>21 never seen minutes of Bentley's board minutes --</p> <p>22 meetings?</p> <p>23 A. That's correct, I have never seen that.</p> <p>24 Q. Well, I will represent to you that these have</p>	<p style="text-align: right;">Page 108</p> <p>1 they communicate it to me, you know, that there</p> <p>2 is, for example, 50 million stock option --</p> <p>3 THE WITNESS: 50,000.</p> <p>4 A. -- 50,000 stock options --</p> <p>5 THE TRANSLATOR: Sorry.</p> <p>6 A. -- available for the employees, and what I do is</p> <p>7 that I send the distribution list with these</p> <p>8 options to the employees. That's normal</p> <p>9 procedure.</p> <p>10 Q. Who do you send the list to?</p> <p>11 A. To the vice president, Michael Price, of Bentley</p> <p>12 Pharmaceuticals.</p> <p>13 Q. And then the compensation committee at Bentley</p> <p>14 decides?</p> <p>15 A. I'm going to explain to you a little bit more</p> <p>16 clear the process. The procedure is Jim Murphy</p> <p>17 communicates to me as president of Belmac that</p> <p>18 he has to submit to his board of directors of</p> <p>19 Bentley Pharmaceuticals what will be my payroll</p> <p>20 just as the assigned stock options, just as the</p> <p>21 package, which will be assigned by the board of</p> <p>22 directors as is required by the president of</p> <p>23 Laboratorios Belmac. So Jim Murphy communicates</p> <p>24 this to me. I distribute the options of the --</p>
<p style="text-align: right;">Page 107</p> <p>1 been produced to us as minutes of Bentley board</p> <p>2 meetings. And the date on the first page is</p> <p>3 July 29th, 1998. What I'll ask you to do is</p> <p>4 turn to Page 2619. And before asking you</p> <p>5 questions about this specific document, let me</p> <p>6 ask you -- let me refresh your memory that we</p> <p>7 discussed your receipt of stock options</p> <p>8 yesterday. Do you recall that discussion?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know whether other people at Laboratorios</p> <p>11 Belmac have received stock options from Bentley?</p> <p>12 A. Yes.</p> <p>13 Q. How many employees of Laboratorios Belmac have</p> <p>14 received Bentley stock options that you know of?</p> <p>15 A. It depends on the policies of the general</p> <p>16 manager of Belmac at the time.</p> <p>17 Q. In other words, it depends on -- it has depended</p> <p>18 on your policies since 1999?</p> <p>19 A. What it means, that there's in existence an</p> <p>20 assignment by the parent company in which it's</p> <p>21 defined that there is 40 or 50 or 60 stock</p> <p>22 options that the general manager of Laboratorios</p> <p>23 Belmac could assign to his or her employees.</p> <p>24 The process, which is the way I do, you know,</p>	<p style="text-align: right;">Page 109</p> <p>1 the stock options to the employees, and I</p> <p>2 communicate it to the vice president of Bentley</p> <p>3 Pharmaceuticals.</p> <p>4 Q. Michael Price?</p> <p>5 A. Exactly.</p> <p>6 Q. How many Laboratorios Belmac employees generally</p> <p>7 receive options -- stock options each years?</p> <p>8 MR. STEWART: Objection as to whether</p> <p>9 we're talking past, present.</p> <p>10 Q. While you have been general manager.</p> <p>11 A. Approximately about ten to twelve people.</p> <p>12 Q. Are these generally the top people in</p> <p>13 Laboratorios Belmac?</p> <p>14 A. Top positions or mid-positions.</p> <p>15 Q. And if I could have you look at the list on</p> <p>16 Page 2619 and 2620, I count 17 people who</p> <p>17 received stock options in 1998. Is that</p> <p>18 correct?</p> <p>19 MR. STEWART: Are you asking him to</p> <p>20 count?</p> <p>21 A. I'm counting 15.</p> <p>22 MR. BOSTWICK: Yes.</p> <p>23 Q. Do you see the two on the side as well?</p> <p>24 A. No, no, I didn't. I'm sorry. I only saw, like,</p>

11 (Pages 106 to 109)

<p style="text-align: right;">Page 110</p> <p>1 directly going down.</p> <p>2 Q. So this is the way this document was produced to</p> <p>3 us.</p> <p>4 A. Yes, there are 17.</p> <p>5 Q. Can you look at that list and tell me whether</p> <p>6 there are other people that you know of that</p> <p>7 have received stock options from Bentley? And</p> <p>8 I'm talking about Laboratorios Belmac employees.</p> <p>9 A. Well, no. You know, in the year 1998, I did not</p> <p>10 develop this list. Also, you know, I didn't put</p> <p>11 this list together.</p> <p>12 Q. So starting in 1999, you did put the list</p> <p>13 together?</p> <p>14 A. I suppose that I did.</p> <p>15 Q. From 1999 to, say, 2004, can you tell me the</p> <p>16 people that have been on the list you have sent</p> <p>17 to Mr. Price?</p> <p>18 A. From memory?</p> <p>19 Q. Yes. You can also look at this list of 17</p> <p>20 people and tell me whether they're the same or</p> <p>21 different.</p> <p>22 A. There's many people of that list --</p> <p>23 THE TRANSLATOR: Sorry.</p> <p>24 A. There's many people off this list that no longer</p>	<p style="text-align: right;">Page 112</p> <p>1 more.</p> <p>2 Q. Let's -- let me turn your attention to 1999. Do</p> <p>3 you recall during 1999 that Mr. Gonzalez Azpetia</p> <p>4 gave some interviews with local press regarding</p> <p>5 omeprazole and microgranulation? Do you recall</p> <p>6 that?</p> <p>7 A. The Diarios Medico, which is a specialized</p> <p>8 newspaper, usually call companies just trying to</p> <p>9 obtain some article of each company to be</p> <p>10 published at their pages. The Diarios Medico</p> <p>11 called him, and he offered an interview.</p> <p>12 Q. Do you recall that Ethypharm was upset about</p> <p>13 those interviews?</p> <p>14 A. I remember once that Ethypharm, it was upset</p> <p>15 because of an advertisement -- newspaper</p> <p>16 advertisement.</p> <p>17 Q. Let me show you a document.</p> <p>18 (Fax to Ms. Joannesse from</p> <p>19 Mr. Rodriguez, dated April 8, 1999 was</p> <p>20 marked Exhibit Number 7 for</p> <p>21 identification.)</p> <p>22 Q. This is a document that is in English, and I</p> <p>23 would just like you to look at the third page,</p> <p>24 9114. And I'll ask you, have you ever seen that</p>
<p style="text-align: right;">Page 111</p> <p>1 receive because they're no longer at the</p> <p>2 company. For example, we can talk about Ester</p> <p>3 Sanchez, Paloma Rodriguez Irizabel.</p> <p>4 Q. Can you spell that last name, please?</p> <p>5 A. I R I Z A B E L. Juan Carlos Asencio, Antonio</p> <p>6 Cabodevilla, Jose Maria Clua, C L U A, Carlos</p> <p>7 Moran, Ignacio Morano, Carmen Galisteo,</p> <p>8 Concepcion Hernandez. I don't know how many so</p> <p>9 far, but maybe like one more.</p> <p>10 Q. Is Concha Sanchez on that list?</p> <p>11 A. Yes. Yes.</p> <p>12 Q. Just so I understand, the people you have just</p> <p>13 named are Laboratorios Belmac employees,</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. And those people have also been given Bentley</p> <p>17 stock options while you were general manager of</p> <p>18 Belmac?</p> <p>19 A. Correct.</p> <p>20 Q. Are there any more that you can recall?</p> <p>21 A. Rosa Mar Hernandez. And someone else could be.</p> <p>22 Q. There may be some more, in other words?</p> <p>23 A. Maybe two, three, four more people. I'm not</p> <p>24 sure. There's eleven here, so it could be a few</p>	<p style="text-align: right;">Page 113</p> <p>1 letter before?</p> <p>2 A. Yes.</p> <p>3 Q. When?</p> <p>4 A. I suppose it was a long time ago.</p> <p>5 Q. What do you recognize this letter to be?</p> <p>6 A. As I can see, it is a complaint.</p> <p>7 Q. Do you recall around this period of April 1999</p> <p>8 Mr. DeBregeas writing to Mr. Murphy at Bentley</p> <p>9 Pharmaceuticals about his problems with Spanish</p> <p>10 newspaper articles that related to pelletization</p> <p>11 of omeprazole?</p> <p>12 A. Yes. And what's the question, please?</p> <p>13 MR. BOSTWICK: Could we repeat?</p> <p>14 (Reporter read back the last question.)</p> <p>15 A. I remember having seen this letter, but I don't</p> <p>16 remember anything else in specific regarding</p> <p>17 this topic.</p> <p>18 Q. Do you recall who gave you a copy of that</p> <p>19 letter?</p> <p>20 A. I imagine that my general manager did show it to</p> <p>21 me.</p> <p>22 Q. Clemente Gonzalez?</p> <p>23 A. I suppose that he was.</p> <p>24 Q. Do you recall having a conversation with</p>

12 (Pages 110 to 113)

<p style="text-align: right;">Page 114</p> <p>1 Mr. Gonzalez about this letter?</p> <p>2 A. Very briefly, I remember, you know, that he</p> <p>3 showed me this letter, but, you know, nothing</p> <p>4 else.</p> <p>5 Q. Do you remember discussing the issues raised in</p> <p>6 this letter with Mr. Murphy?</p> <p>7 A. I honestly don't remember.</p> <p>8 Q. Let me show you another exhibit.</p> <p>9 (Letter to Mr. DeBregeas from</p> <p>10 Mr. Murphy, dated April 9, 1999 was</p> <p>11 marked Exhibit Number 8 for</p> <p>12 identification.)</p> <p>13 Q. Have you ever seen that letter before?</p> <p>14 A. Yes.</p> <p>15 Q. In what context?</p> <p>16 A. In the context that my general manager must have</p> <p>17 shown me this response.</p> <p>18 Q. In April 1999, your general manager or -- the</p> <p>19 general manager of Laboratorios Belmac was still</p> <p>20 Mr. Gonzalez Azpetia; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. So you had not yet become general manager in</p> <p>23 April, correct?</p> <p>24 A. No, not yet.</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. Why did you prefer not to answer Mr. Gonzalez</p> <p>2 about what you thought about this letter?</p> <p>3 A. Well, you know, I just said -- he said, "What do</p> <p>4 you think?" I said, "It is a letter. It is a</p> <p>5 polite letter, and it doesn't have any meaning</p> <p>6 to me."</p> <p>7 Q. Did Mr. Murphy ever talk to you about this</p> <p>8 letter?</p> <p>9 A. That I remember, no.</p> <p>10 Q. Did Mr. Gonzalez express his view of this</p> <p>11 letter?</p> <p>12 A. No. The only comment that Mr. Gonzalez said</p> <p>13 was, like, "Here we go again, the same as always</p> <p>14 with the same issues with Ethypharm."</p> <p>15 Q. What did you understand that Mr. Gonzalez meant</p> <p>16 by that?</p> <p>17 A. That we're always with the same stories about,</p> <p>18 you know, the know-how, technology.</p> <p>19 Q. Can you explain that comment more to me?</p> <p>20 A. It had to do with the issue that the</p> <p>21 relationship in between both companies were not</p> <p>22 clarified and that we were always, you know,</p> <p>23 going over the same stories.</p> <p>24 Q. What stories were those?</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. Do you recall the conversation you had with</p> <p>2 Mr. Gonzalez Azpetia about Exhibit 8?</p> <p>3 A. What I remember is that Mr. Gonzalez Azpetia did</p> <p>4 show me this letter and that we talked about it</p> <p>5 that, you know, it had been responded directly</p> <p>6 from Mr. Jim Murphy.</p> <p>7 Q. What did you discuss about the fact that it had</p> <p>8 been responded to by Mr. Murphy?</p> <p>9 A. There was no conversation or discussion in terms</p> <p>10 of the letter -- the response to the letter. It</p> <p>11 was just the issue or the comment that</p> <p>12 Mr. Murphy did respond to the letter to</p> <p>13 Ethypharm.</p> <p>14 Q. Did you speak with Mr. Gonzalez about whether</p> <p>15 Mr. Gonzalez thought this was an appropriate</p> <p>16 response?</p> <p>17 A. What I do remember about this letter is that</p> <p>18 when it was shown to me and I talked about it</p> <p>19 with Mr. Gonzalez and he said to me, "What do</p> <p>20 you think about this," I just said, "I prefer</p> <p>21 not to comment." And it was a polite letter.</p> <p>22 Q. Why did you prefer not to answer?</p> <p>23 THE TRANSLATOR: Do you want to ask</p> <p>24 the question again or do you --</p>	<p style="text-align: right;">Page 117</p> <p>1 A. The same that we have defined prior.</p> <p>2 Q. I'm sorry. What have we defined?</p> <p>3 A. You know, we were always, like, 1997, they send</p> <p>4 us a contract. We don't sign the contract</p> <p>5 because it's not possible to sign this contract.</p> <p>6 The relationship among both companies prior to</p> <p>7 this were never too clear, so there was no clear</p> <p>8 understanding or agreement between the two</p> <p>9 companies. And because of some news articles</p> <p>10 that came across through an interview, Patrice</p> <p>11 DeBregeas sent a letter to Mr. Murphy that we</p> <p>12 were always -- you know, the same issue as</p> <p>13 always.</p> <p>14 Q. Let me show you another document.</p> <p>15 (Letter from Mr. Herrera, dated June 11,</p> <p>16 1999 was marked Exhibit Number 9 for</p> <p>17 identification.)</p> <p>18 Q. Do you recognize this document?</p> <p>19 A. Yes. It's signed by me.</p> <p>20 Q. And it's signed by you as the general manager,</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. Of Laboratorios Belmac?</p> <p>24 A. That's true.</p>

13 (Pages 114 to 117)

<p style="text-align: right;">Page 118</p> <p>1 Q. So as of June 11th, 1999, you have been</p> <p>2 appointed general manager of Laboratorios</p> <p>3 Belmac, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And this letter is written in English?</p> <p>6 A. Correct.</p> <p>7 Q. Did you write all of this letter yourself?</p> <p>8 A. No.</p> <p>9 Q. Who did?</p> <p>10 A. I wrote it in Spanish, and then a person in the</p> <p>11 company translated the letter for me.</p> <p>12 Q. Who did that? Do you know?</p> <p>13 A. Paloma Rodriguez Irizabel. She is bilingual.</p> <p>14 She studied at the British school.</p> <p>15 Q. Did you discuss this letter with Mr. Murphy</p> <p>16 before sending it?</p> <p>17 A. No.</p> <p>18 Q. Let me take you back for a moment to your</p> <p>19 meeting with Pierre Germain and Mr. Murphy. Do</p> <p>20 you recall that?</p> <p>21 MR. BOSTWICK: Not DeBregeas.</p> <p>22 THE TRANSLATOR: Excuse me.</p> <p>23 MR. STEWART: Objection.</p> <p>24 Q. With Mr. Murphy, Mr. Germain, and yourself.</p>	<p style="text-align: right;">Page 120</p> <p>1 and 11. And I'd ask you to tell me if you</p> <p>2 recognize them.</p> <p>3 A. Perfectly.</p> <p>4 Q. Can you tell me what these documents are?</p> <p>5 A. One is a manufacturing contract between</p> <p>6 Laboratorios Belmac and Ethypharm. The other</p> <p>7 one is a letter -- a compromising letter -- a</p> <p>8 compromise purchasing letter between</p> <p>9 Laboratorios Belmac and Laboratories Ethypharm</p> <p>10 that clarified the relationship between the two</p> <p>11 companies at the moment.</p> <p>12 Q. Which one of those documents is the</p> <p>13 manufacturing contract?</p> <p>14 A. Exhibit Number 10.</p> <p>15 Q. And did you sign both of these documents?</p> <p>16 A. Yes.</p> <p>17 Q. And who signed the documents for Ethypharm?</p> <p>18 A. Adolfo de Basilio, general manager of Ethypharm.</p> <p>19 Q. Were they both signed at the same time?</p> <p>20 A. And in conjunction or at the same time of the</p> <p>21 other contracts of aspirin, Vincamine, and</p> <p>22 Indometicin, and there's one more, but I don't</p> <p>23 remember.</p> <p>24 Q. What can you tell me about the negotiations that</p>
<p style="text-align: right;">Page 119</p> <p>1 MR. STEWART: Objection. Which</p> <p>2 meeting? There were at least two that I</p> <p>3 remember.</p> <p>4 Q. The meeting that I'm referring to is the meeting</p> <p>5 where there was a discussion about the possible</p> <p>6 closing down of the Ethypharm Spain operations.</p> <p>7 Did that meeting take place in English, French</p> <p>8 or Spanish?</p> <p>9 A. English.</p> <p>10 Q. Was there a translator present?</p> <p>11 A. No. As I had mentioned before, I can understand</p> <p>12 more or less. Writing is what I don't do so</p> <p>13 good or so well. I would love to be able to</p> <p>14 write English also.</p> <p>15 Q. I would love to be able to speak any other</p> <p>16 language. Let me show you another two documents</p> <p>17 actually.</p> <p>18 (Document titled Contrato de Fabricacion</p> <p>19 was marked Exhibit Number 10 for</p> <p>20 identification.)</p> <p>21 (Document titled Carta de Compromiso de</p> <p>22 Compra and Other Documents was marked</p> <p>23 Exhibit Number 11 for identification.)</p> <p>24 Q. I would ask you to take a look at Documents 10</p>	<p style="text-align: right;">Page 121</p> <p>1 led to signing these agreements?</p> <p>2 A. On a good day, Adolfo de Basilio gave me a call,</p> <p>3 telling me that we had to formalize our</p> <p>4 relationship between both companies in reference</p> <p>5 to different products. And then we were</p> <p>6 conversing by phone, and then I went to see him.</p> <p>7 I remember that he showed me a contract in</p> <p>8 French, and they called it charts book or</p> <p>9 notebook. I know how to say it in French, not</p> <p>10 in English. Cargos -- I just don't know how to</p> <p>11 translate it to. It was a contract in French,</p> <p>12 in the French language. And I asked him, you</p> <p>13 know, what in specific these contracts are</p> <p>14 referring to, and he told me that it was</p> <p>15 referring to all the products that we have in</p> <p>16 relation for both of us. I asked him if he was</p> <p>17 referring to aspirin, Vincamine. That wouldn't</p> <p>18 be no problem, but that the contract about</p> <p>19 omeprazole had to be a different contract</p> <p>20 because it was different circumstances.</p> <p>21 Q. Go ahead.</p> <p>22 A. For that reason, he made an agreement with me</p> <p>23 that he was going to send to me the contract</p> <p>24 models.</p>

14 (Pages 118 to 121)

<p style="text-align: right;">Page 122</p> <p>1 Q. Did you say to Mr. Adolfo de Basilio that the 2 omeprazole had to be different or was 3 Mr. Basilio saying that to you? 4 A. I told him that it had to be different, and he 5 understood. 6 Q. Perhaps you can help me understand. Why did 7 they have to be different? 8 A. Because as compared to the other products, they 9 were products that we did not have any 10 relationship in the market, commercial 11 relationship in the market, and those products 12 were certain process of manufacturing for other 13 companies exclusively of Ethypharm. It was a 14 contract -- a concept of contract, and the 15 omeprazole, it was different. And for that 16 reason, we agreed that it had to be different 17 contracts. I'm not sure if I did answer your 18 question. 19 Q. I think so. Did you speak with anybody other 20 than Mr. De Basilio from Ethypharm about 21 Exhibits 10 and 11 during this negotiation 22 process? 23 A. This was a relationship -- direct relationship 24 between Adolfo de Basilio and myself, and when I</p>	<p style="text-align: right;">Page 124</p> <p>1 and he wanted to have -- organize the 2 relationship between the two companies. 3 Q. Did you speak with Mr. Germain about Exhibits 10 4 and 11 at this time? 5 A. No. 6 Q. Did you speak with anybody else at Ethypharm 7 that you can recall about Exhibits 10 or 11? 8 A. No. 9 Q. And I'm only talking about while these are being 10 negotiated. 11 A. No. For me, it was direct relationships between 12 two general managers of two Spanish companies, 13 and the contracts were signed according to the 14 law and courts. 15 Q. Do you recall anyone else from Laboratorios 16 Belmac participating in the negotiations 17 relating to Exhibit 10 and Exhibit 11? 18 A. Directly, it was just by myself, but I was also 19 working -- in my office was working Fernando 20 Berenguer. 21 Q. Was Clemente Gonzalez a part of the discussions 22 with Ethypharm? 23 A. No. 24 Q. Did he provide information or advice to you</p>
<p style="text-align: right;">Page 123</p> <p>1 used to visit Ethypharm, there was also Eloi 2 Gonzalez and Ignacio Alvarez. 3 Q. Did you discuss -- strike that. Did 4 Mr. Gonzalez and Mr. Alvarez participate in the 5 negotiations relating to Exhibits 10 and 11? 6 A. I wanted to be specific in mentioning that the 7 signature of these contracts were made in record 8 time. I don't remember the specifics of why. 9 And what I remember was that the contracts were 10 sent to me. I conversed or discussed with 11 Mr. De Basilio. I did go to his company at some 12 time to discuss these contracts, and a lawyer 13 then could have been present. I don't know -- I 14 don't remember. What I do remember is that I 15 was very focussed with Adolfo de Basilio in 16 terms of this contract because he was in a rush 17 to have them signed. 18 Q. Was -- do you recall a reason why he was in a 19 rush to have them signed? 20 A. I can make my own personal judgment, but I don't 21 know for sure. 22 Q. What is your personal judgment? 23 A. My personal judgment is that there had arrived a 24 new general manager, which was Pierre Germain,</p>	<p style="text-align: right;">Page 125</p> <p>1 about these contracts outside the presence of 2 Ethypharm? 3 A. No. 4 Q. How about Mr. Murphy? Did you have discussions 5 with Mr. Murphy about Exhibits 10 and 11 during 6 this time period of March 2000? 7 A. No. 8 Q. Did you ever have discussions with Mr. Murphy 9 about -- well, strike that. Did you ever speak 10 with Mr. Murphy about Exhibits 10 or 11? 11 MR. STEWART: I assuming that you mean 12 exclusive of conversations with counsel, at 13 which conversations where counsel was present. 14 A. On what period of time? In which period of 15 time? 16 Q. Any time. 17 A. These documents were negotiated and signed 18 directly from me with Mr. Adolfo de Basilio. 19 After they were signed, during my usual 20 conversation with my president, the president of 21 Belmac, I explained to him that I have signed a 22 manufacturing contract and a supply contract. 23 Q. Do you recall -- 24 A. And I insist that it was on record time.</p>

15 (Pages 122 to 125)

<p style="text-align: right;">Page 126</p> <p>1 Q. Do you recall the date of the discussion with 2 Mr. Murphy that you're referring to? 3 A. No. 4 Q. Do you remember how long after these documents 5 were signed that you had that conversation? 6 A. I just remember it was afterwards. You know, 7 we're talking about six years ago. I just 8 remember it was afterwards. 9 Q. Do you have a recollection of whether it was 10 within a week or within a month or within six 11 months? What is your best estimate? 12 A. A short period of probably, like, two or three 13 weeks. It was a short period. It was something 14 that surprised me a lot. After such a long time 15 of being talking about it and negotiated, that 16 we were able to sign this in such a short period 17 of time. 18 Q. What -- do you recall whether Mr. Murphy said 19 anything to you in your discussion with him? 20 A. I don't remember. I don't remember. 21 Q. Is there anything else that stands out in your 22 mind about the signing of these documents, 11 -- 23 10 and 11? 24 A. Yeah, there's things that come to mind.</p>	<p style="text-align: right;">Page 128</p> <p>1 manufacture currently because in others where it 2 said that Belmac will manufacture. Those are 3 the corrections that I remembered. 4 Q. And that's on Exhibit 10, correct? 5 A. Yes. 6 Q. And you were talking about Paragraphs G -- C -- 7 A. D as in David, E as in Edward, G as in George. 8 Q. D, E, and G, correct? 9 A. D, E, G, correct. 10 Q. Do you recall anything about Exhibit 11 along 11 those same lines, in other words, things that 12 were changed? 13 A. The same thing. The compromise letter for two 14 years. That was it. 15 Q. I'm going to show you another document. 16 (Fax to Mr. Herrera from Mr. De Basilio, 17 dated December 5, 2000 was marked 18 Exhibit Number 12 for identification.) 19 Q. Do you recognize this document? 20 A. Yes. 21 Q. What do you recommend -- what do you recall 22 about this document? 23 A. You know, the only thing that I can remember is 24 that it had been sent to me because I see it</p>
<p style="text-align: right;">Page 127</p> <p>1 Q. Can you tell me what's coming to mind? 2 A. What comes to mind is that in this document, I 3 introduced modifications, and the ones that come 4 to mind is that I introduce Article E, that this 5 contract would not limit the manufacturing of 6 the product from Belmac for its own and its 7 clients. I also introduced an agreement that I 8 don't remember why, but it came with a time 9 limit of a year and it changed it to two years. 10 THE TRANSLATOR: So he's talking 11 about -- 12 Q. Are you talking about G? 13 THE TRANSLATOR: G, that he remembered 14 that it was introduced as a one-year limit, and 15 it was changed, as you see in G, that the 16 present agreement will have a duration of two 17 years. 18 Q. Am I correct that you proposed that the 19 agreement last for a period of one year? 20 A. Of two. On the draft, it came as a one-year, 21 and I introduced the two years because I 22 couldn't understand why an agreement of one 23 year. One-year agreement is like nothing. And 24 in Article G, I also introduced that Belmac</p>	<p style="text-align: right;">Page 129</p> <p>1 here, but I did not remember this document. 2 Q. Do you remember why Mr. Mateo Gasca was 3 dismissed from Laboratorios Belmac? 4 A. More or less. 5 Q. Who is Mateo Gasca? 6 A. A person that was working in microgranules. 7 Q. For Laboratorios Belmac? 8 A. Yes, that's how it was. 9 Q. For many years? 10 A. Yes. 11 Q. What do you recall about why Mr. Gasca was fired 12 from Laboratorios Belmac? 13 A. I remember that he had been assigned other 14 responsibilities independent of the 15 manufacturing of microgranules, and he was 16 working in specific areas of development that 17 had nothing to do with omeprazole. And there 18 was a development committee, did not complete 19 their functions, and he was a difficult person 20 from the perspective of personal relationships. 21 And for that reason, he was dismissed. I also 22 want to make the point that his brother was 23 working also in the company, and he continues 24 working in the company with no problems.</p>

16 (Pages 126 to 129)

<p style="text-align: right;">Page 130</p> <p>1 Q. Who fired Mr. Gasca?</p> <p>2 A. It was during my tenure as general manager.</p> <p>3 Q. So is it your testimony that you fired him?</p> <p>4 A. I as general manager, I'm responsible for all</p> <p>5 the terminations that took place within the</p> <p>6 company, in all the areas of the company. I'm</p> <p>7 the only one that has the authority to sign</p> <p>8 terminations.</p> <p>9 Q. Does Mr. Murphy have authority to sign</p> <p>10 terminations?</p> <p>11 A. He is the president of Belmac Laboratories, but</p> <p>12 as far as I'm aware and specifically during my</p> <p>13 tenured time -- and I imagine that even before</p> <p>14 my time, but I can only speak for during my</p> <p>15 time. I am responsible for the day-to-day</p> <p>16 operations and I have the authority to take care</p> <p>17 of the day-to-day operations. And I have the</p> <p>18 delegated power to utilize all the power that</p> <p>19 has been assigned to me by -- the powers that</p> <p>20 have been delegated to me by the board of</p> <p>21 directors of Laboratorios Belmac.</p> <p>22 Q. I'll come back to that. I want to follow up in</p> <p>23 that area, but let's stick with Mr. Gasca's</p> <p>24 termination for a moment. Okay? Was it your</p>	<p style="text-align: right;">Page 132</p> <p>1 or already had left his company, but had to be</p> <p>2 among these two people, both of them.</p> <p>3 Q. So it was either one or both of those two</p> <p>4 gentlemen that recommended --</p> <p>5 A. I think it was both of them because there's a</p> <p>6 director of industrial relationships and there's</p> <p>7 a director -- industrial operations and there's</p> <p>8 a director of manufacturing.</p> <p>9 Q. And can you tell me as closely as you can why</p> <p>10 those gentlemen recommended that Mr. Gasca be</p> <p>11 fired?</p> <p>12 A. What I remember was commented to me was that he</p> <p>13 wasn't completing his functions, responsible for</p> <p>14 his functions, responsibilities, and he was a</p> <p>15 difficult person, you know, from the social</p> <p>16 relationship with his co-workers.</p> <p>17 Independently, that he was better or worse at</p> <p>18 his job. People that generate conflicts within</p> <p>19 a company cannot be kept. That's what I</p> <p>20 remember.</p> <p>21 MR. STEWART: Can we take a break, a</p> <p>22 short break now?</p> <p>23 MR. BOSTWICK: Sure. Would you -- I</p> <p>24 could go for another five or ten minutes, we</p>
<p style="text-align: right;">Page 131</p> <p>1 idea alone to fire Mr. Gasca or was it -- did</p> <p>2 somebody come to you and say, "I think he should</p> <p>3 be fired"?</p> <p>4 A. Let me see. I'm the general manager of Belmac</p> <p>5 Laboratories. I lived in Madrid, and my offices</p> <p>6 are in Madrid. Manufacturing plant is in</p> <p>7 Zaragoza, 350 kilometers from Madrid. I am</p> <p>8 responsible for manufacturing, responsible of</p> <p>9 development, responsible of control, responsible</p> <p>10 for everything that falls under operations of a</p> <p>11 plant. If Mr. Mateo Gasca is terminated, it is</p> <p>12 as a consequence that his bosses require to he</p> <p>13 be terminated.</p> <p>14 Q. Who were his bosses?</p> <p>15 A. The directors of manufacturing -- the</p> <p>16 corresponding directors of manufacturing.</p> <p>17 Q. And it's those people that recommended Mr. Gasca</p> <p>18 be fired?</p> <p>19 A. Yes.</p> <p>20 Q. Who are those people?</p> <p>21 A. I imagine that around the year 2000, it must</p> <p>22 have been Mr. Jose Luis Monterde and Mr. Antonio</p> <p>23 Cabodevilla. I don't remember specifically if</p> <p>24 Mr. Jose Luis was on the way out of the company</p>	<p style="text-align: right;">Page 133</p> <p>1 could break for lunch, if you'd like. I'm very</p> <p>2 close to a stopping point. Is that better or</p> <p>3 not?</p> <p>4 Let's go off the record.</p> <p>5 THE VIDEOGRAPHER: The time is</p> <p>6 12:07 p.m. We're going off the record.</p> <p>7 (Discussion off the record</p> <p>8 (Luncheon recess)</p> <p>9 THE VIDEOGRAPHER: The time is</p> <p>10 1:10 p.m. on July 21st, 2006. This is the end</p> <p>11 of Tape Number 2, Volume 2 of the videotaped</p> <p>12 deposition of Mr. Adolfo Herrera.</p> <p>13 (Off the record)</p> <p>14 THE VIDEOGRAPHER: The time is</p> <p>15 1:14 p.m. on July 21st, 2006. This is Tape</p> <p>16 Number 3, Volume 2 of the videotaped deposition</p> <p>17 of Mr. Adolfo Herrera.</p> <p>18 Q. Welcome back from lunch, Mr. Herrera.</p> <p>19 Mr. Herrera, during your testimony, you have</p> <p>20 spoken about the nature of your authority as the</p> <p>21 general manager of Belmac. Correct?</p> <p>22 THE TRANSLATOR: He questioned. I</p> <p>23 used the word "testimonio," and he didn't</p> <p>24 understand. I used the word "this process."</p>

17 (Pages 130 to 133)

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1 MR. BOSTWICK: And did he answer yes?
 2 THE TRANSLATOR: Yes.
 3 Q. I want to be clear. Jim Murphy is your boss at
 4 Laboratorios Belmac, correct?
 5 A. Is my president.
 6 Q. And that also means he is your boss?
 7 A. Yes, we can consider it that way.
 8 Q. He also holds -- Jim Murphy also holds the title
 9 of consejero delegado unico, correct?
 10 A. I think so.
 11 Q. And consejero delegado unico means that
 12 Mr. Murphy is the sole person holding all the
 13 powers at Laboratorios Belmac to delegate as he
 14 decides, correct?
 15 A. Under the board of directors representation.
 16 Q. Now, Jim Murphy is also the CEO and chairman of
 17 the board for Bentley, correct?
 18 A. Correct.
 19 Q. And that is his main job; isn't it?
 20 A. Yes, we can interpret that way within Bentley
 21 Pharmaceuticals.
 22 Q. And you did speak with Mr. Murphy, your boss,
 23 about important matters that have taken place at
 24 Laboratorios Belmac since you became general

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1 manager in 1999, correct?
 2 A. Yes.
 3 Q. And if Mr. Murphy doesn't like how you're making
 4 decisions, he can fire you, correct?
 5 A. He's the president of Belmac.
 6 Q. So the answer is yes?
 7 A. Yes.
 8 Q. Did you ever have to get authorization from
 9 Mr. Murphy before providing information to
 10 Ethypharm?
 11 A. When I decided not to continue the manufacturing
 12 contracts and supply contracts that were
 13 current, because it was an important topic for
 14 the company, I communicated to Mr. Murphy my
 15 decision and I consulted with him.
 16 Q. Were there other occasions where you acquired
 17 Mr. Murphy's authorization before providing
 18 information to Ethypharm?
 19 A. That I remember of? No.
 20 Q. In fact, didn't you tell Adolfo de Basilio on a
 21 number of occasions, "I'll have to get back to
 22 you on that issue because I have to discuss it
 23 with Mr. Murphy"?
 24 A. In some occasion with the objective of gaining

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1 more time during my negotiations with him.
 2 Q. So, in other words, you did tell that to Adolfo
 3 de Basilio on certain occasions?
 4 A. With the objective of gaining time in my
 5 negotiations with Ethypharm Laboratories.
 6 Q. So, in other words, when you told Mr. De Basilio
 7 that you needed to speak with Mr. Murphy, that
 8 just wasn't true?
 9 A. I will be informing to Mr. Murphy of the things
 10 that I would be doing along the way in terms of
 11 the normal relationships.
 12 Q. You were using Mr. Murphy as a negotiation
 13 tactic with Mr. De Basilio; is that correct?
 14 A. At some point, we could say that I used
 15 Mr. Murphy's name just to gain time in my
 16 negotiations.
 17 Q. Let me show you a document.
 18 (Fax to Mr. Alvarez from Mr. Herrera,
 19 dated October 31, 2000 was marked
 20 Exhibit Number 13 for identification.)
 21 MR. STEWART: Do we have a translation
 22 of this or are we going to ask our --
 23 MR. BOSTWICK: No, I'm going to have
 24 to ask. The second page is all in English, and

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1 I will ask the translator to translate just the
 2 line on the message.
 3 Q. First, let me ask you to take a quick look at
 4 that document, Mr. Herrera.
 5 A. Yes, of course.
 6 Q. And while you're doing that, I'm going to have
 7 the translator translate into English the little
 8 message on the first page.
 9 THE TRANSLATOR: "Dear Ignacio, as you
 10 have solicited, enclosed I'm sending to you a
 11 copy of our company's chart."
 12 Q. Did you have to get approval from Bentley or
 13 Mr. Murphy before sending this chart to
 14 Ethypharm?
 15 A. No.
 16 Q. Did you tell Adolfo de Basilio that you needed
 17 to get authorization from Mr. Murphy in order to
 18 get -- in order to give a copy of this chart?
 19 A. It could have been that I had made the comment
 20 to him that I needed the permission of the
 21 president of Belmac Laboratories.
 22 Q. In fact, isn't it true that you told Mr. Adolfo
 23 de Basilio that you had to get authorization
 24 from Bentley in the U.S.A. to give this chart?

18 (Pages 134 to 137)

<p style="text-align: right;">Page 138</p> <p>1 A. I don't think that I presented it in that way. 2 I think I presented it as Laboratorios Belmac. 3 I could have made a mistake, but I always 4 present everything from Laboratorios Belmac. 5 Q. Let's talk about Ethypharm and its importance to 6 Laboratorios Belmac and Bentley. I have 7 gathered some statistics that were reported by 8 Bentley Pharmaceuticals to the United States 9 Government as a part of its public duties as a 10 publicly traded company, and I'm going to ask 11 you if this is consistent with your 12 understanding. In 1999, is it true that 13 100 percent of Bentley's sales came from Spain? 14 A. It could have been. 15 Q. In the year 2000, did 99 percent of Bentley's 16 sales come from Laboratorios Belmac in Spain? 17 A. It could have been. 18 Q. And in 2001, did 98 to 99 percent of Bentley's 19 sales come from Spain? 20 A. It could be -- could have been. 21 Q. And in the year 2002, did 99 percent of 22 Bentley's sales come from Laboratorios Belmac in 23 Spain? 24 A. It could have been.</p>	<p style="text-align: right;">Page 140</p> <p>1 sales of omeprazole, correct? 2 A. It could have been, but I don't have the data in 3 front of me. 4 Q. So is it fair to say that Ethypharm has provided 5 Laboratorios Belmac and Bentley with a very 6 profitable business arrangement? 7 MR. STEWART: Objection. 8 A. I'm not going to speak in terms of Bentley 9 Laboratories. I'm going to speak about Belmac 10 Laboratories. Commercially, we sell our 11 product, and we have our benefits, not only from 12 this product but from other products also. And 13 for me, the way that you presented or 14 appreciated these numbers is not correct. 15 Q. What's incorrect about that? 16 A. I haven't mentioned the numbers yet. The 17 appreciation that you made the comment is not 18 correct. 19 Q. Can you explain that to me? 20 A. When you made the comment that Ethypharm had 21 provided a product of a lot of -- a very 22 profitable product to Belmac. 23 MR. STEWART: A very what? 24 THE TRANSLATOR: Profitable.</p>
<p style="text-align: right;">Page 139</p> <p>1 Q. And in 2001, the year you provided notice of 2 termination to Ethypharm -- 3 MR. BOSTWICK: I'm sorry. Can you 4 read back the question? 5 THE TRANSLATOR: I'm sorry. Can you 6 repeat? I lost the name. 7 (Reporter read back the last partial 8 question.) 9 Q. -- isn't it true that 56 percent of the net 10 sales of Spain came from omeprazole? 11 A. I don't have the data in front of me, but it 12 could have been. 13 Q. Isn't it true that in 2001, the revenue from 14 Spain was approximately \$26 million U.S.? 15 A. It could have been. 16 THE TRANSLATOR: And I used 17 "ganancias," and he correct me it's not 18 "ganancias." 19 MR. BOSTWICK: I'm sorry. Could you 20 read -- 21 THE TRANSLATOR: Revenue, I used the 22 word "ganancias." And he corrected me that 23 revenue is "ingresos." 24 Q. So about half of that \$26 million relates to the</p>	<p style="text-align: right;">Page 141</p> <p>1 Q. So, in other words, you think that Ethypharm did 2 not provide a very profitable commercial 3 arrangement to Laboratorios Belmac? 4 A. What I'm saying is that we have contracts that 5 had a renewal date that they were never renewed. 6 MR. BOSTWICK: Let me have this marked 7 for an exhibit. 8 (Fax to Mr. Murphy from Mr. Leduc, dated 9 June 8, 2001 was marked Exhibit Number 10 14 for identification.) 11 Q. I'd ask you to take a look at this document, 12 Mr. Herrera, and see if you can tell me if 13 you've ever seen it before. 14 A. Yes. 15 Q. When did you see that document? 16 A. This document was sent to me by Jim Murphy. 17 Q. Was it sent shortly after June 8th, 2001? 18 A. I suppose so, but I don't remember exactly. 19 Q. Do you understand this document to be a letter 20 and a fax from Gerard Leduc to Mr. Murphy at 21 Bentley Pharmaceuticals? 22 A. That's how I understand it. 23 Q. And it attaches a lengthy draft of an agreement 24 between Ethypharm and Laboratorios Belmac,</p>

19 (Pages 138 to 141)

<p style="text-align: right;">Page 142</p> <p>1 correct? Is that correct?</p> <p>2 A. Correct.</p> <p>3 Q. What do you recall about any conversation you</p> <p>4 had with Mr. Murphy about this letter and draft?</p> <p>5 A. I remember a conversation on which when we were</p> <p>6 commenting, we didn't understand the reason why</p> <p>7 Mr. Murphy received this letter because at that</p> <p>8 time we had regulated the organization that we</p> <p>9 had of the relationship with Ethypharm, that</p> <p>10 Laboratorios Belmac had regulated the</p> <p>11 organization with Laboratories Ethypharm with</p> <p>12 the contracts that had been signed on March 20,</p> <p>13 23rd, 24th of the year 2000.</p> <p>14 Q. Do you mean regularized, not regulated?</p> <p>15 A. The relationship between Laboratorios Belmac and</p> <p>16 Ethypharm were clarified and were organized with</p> <p>17 the contracts that were signed on March of 2000.</p> <p>18 Q. Did you and Mr. Murphy have a conversation about</p> <p>19 whether to respond to Mr. Leduc?</p> <p>20 A. The conversation that we had was that personally</p> <p>21 this contract made no sense to me.</p> <p>22 Q. Did you and Mr. Murphy consider relaying that</p> <p>23 information to anybody in Ethypharm?</p> <p>24 A. That conversation that we had was specifically</p>	<p style="text-align: right;">Page 144</p> <p>1 that they had in 1997, sending a letter, saying</p> <p>2 that they were going to remove all the -- that</p> <p>3 they will take all the machinery and they will</p> <p>4 stop the manufacture at our plant, that we had</p> <p>5 signed a confidentiality agreement of our</p> <p>6 know-how in the year 1998, and the one that we</p> <p>7 had submitted to Ethypharm and they had</p> <p>8 recognized it, and they have signed that</p> <p>9 agreement. The issue that we have our own</p> <p>10 formulations and that we were submitting our own</p> <p>11 patents and the loss of trust as a result from;</p> <p>12 for example, when they were signing that</p> <p>13 contract, they only wanted to sign it for one</p> <p>14 year.</p> <p>15 All of that -- I concluded from all of</p> <p>16 that as the person responsible to maintain the</p> <p>17 best interests of our company, all of that took</p> <p>18 me to make the decision that the best thing was</p> <p>19 not to continue the contract. At that moment,</p> <p>20 that was what I was thinking, and I had to</p> <p>21 finish, you know, thinking about it thoroughly</p> <p>22 before I made my final decision regarding to</p> <p>23 those terms.</p> <p>24 Q. When did the conversation -- strike that. These</p>
<p style="text-align: right;">Page 143</p> <p>1 related to this document, only to the document.</p> <p>2 No -- there was no discussion about relating</p> <p>3 this information to anyone else.</p> <p>4 Q. Is it true that you and Mr. Murphy had already</p> <p>5 decided as of June 2001 to terminate the</p> <p>6 manufacturing agreements with Ethypharm?</p> <p>7 A. I had had -- I had already had a conversation</p> <p>8 with my president -- I don't know whether it was</p> <p>9 before this or after this; I honestly don't</p> <p>10 remember -- that my decision most likely would</p> <p>11 have been of not continuing the contracts that</p> <p>12 we had signed on March 2000.</p> <p>13 Q. Now, you say your decision. Did Mr. Murphy</p> <p>14 agree with this?</p> <p>15 A. I explained to Mr. Murphy the reasons why I</p> <p>16 believed that the contracts should not have</p> <p>17 been -- should not be continuing, but I still</p> <p>18 had to think more about it, process more about</p> <p>19 it.</p> <p>20 Q. What were the reasons?</p> <p>21 A. The reasons were because at the market at that</p> <p>22 moment it was believed that Ethypharm France had</p> <p>23 problems and they were terminating people. The</p> <p>24 same thing was happening in Spain. The behavior</p>	<p style="text-align: right;">Page 145</p> <p>1 are all things that you talked about with</p> <p>2 Mr. Murphy?</p> <p>3 A. That's why I consulted with him, and I said to</p> <p>4 him this was a very important topic and that I</p> <p>5 would consult with him the issue.</p> <p>6 Q. Do you recall when you had this specific</p> <p>7 conversation with Mr. Murphy?</p> <p>8 A. The exact dates, you know, it's kind of hard,</p> <p>9 but I think that, you know, the month of May,</p> <p>10 April, you know, I did make a comment to him.</p> <p>11 Q. Let me refer you to Exhibit 1. It's at the very</p> <p>12 bottom. And let me refer you to Page 7 and</p> <p>13 Number 20, Paragraph 20. When it says, "In</p> <p>14 November 2001, Belmac determined that it would</p> <p>15 not renew its manufacturing agreement with</p> <p>16 Ethypharm," what you're saying is you discussed</p> <p>17 this with Mr. Murphy long before that?</p> <p>18 MR. STEWART: Objection.</p> <p>19 A. What I'm trying to say is that I had thought of</p> <p>20 this possibility with a lot of prior time, but</p> <p>21 as I said before, I had to really analyze</p> <p>22 thoroughly that decision.</p> <p>23 Q. How did you --</p> <p>24 A. And that decision became final at that date.</p>

20 (Pages 142 to 145)

<p style="text-align: right;">Page 146</p> <p>1 Q. In November of 2001?</p> <p>2 A. Yes, that's when it was communicated.</p> <p>3 Q. To analyze this important situation, what steps</p> <p>4 did you take?</p> <p>5 A. To speak with my president of Laboratorios</p> <p>6 Belmac by phone and to explain to him what I</p> <p>7 already stated.</p> <p>8 Q. That's Mr. Murphy, correct?</p> <p>9 A. Correct.</p> <p>10 Q. And you spoke to him on the phone in the United</p> <p>11 States?</p> <p>12 A. I was in Spain.</p> <p>13 Q. Ahh. Where was Mr. Murphy?</p> <p>14 A. In the United States.</p> <p>15 Q. At his offices at Bentley Pharmaceuticals, Inc.?</p> <p>16 A. I suppose he was.</p> <p>17 Q. And what else did you do to analyze this</p> <p>18 important situation?</p> <p>19 A. You know, I believe I had explained all the</p> <p>20 topics with clarity just a while ago, and the</p> <p>21 other thing was that because of Ethypharm</p> <p>22 behavior, I had no trust in them.</p> <p>23 Q. Between April of 2001 and November of 2001, did</p> <p>24 you perform any studies or analyze profit or do</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. And these are expensive?</p> <p>2 A. Correct.</p> <p>3 Q. And it takes time?</p> <p>4 A. Correct.</p> <p>5 Q. And you have to spend time on research and</p> <p>6 development?</p> <p>7 A. Yes.</p> <p>8 Q. And one has to make sure that you're not</p> <p>9 infringing on the patents of other companies,</p> <p>10 correct?</p> <p>11 A. Correct.</p> <p>12 Q. And in the case of omeprazole, you had to make</p> <p>13 sure that you weren't infringing on</p> <p>14 AstraZeneca's patent, correct?</p> <p>15 THE TRANSLATOR: Infringing on what</p> <p>16 patent?</p> <p>17 MR. BOSTWICK: AstraZeneca's patent.</p> <p>18 Q. Is that correct?</p> <p>19 A. Any patent.</p> <p>20 THE WITNESS: In force.</p> <p>21 Q. Any patent in force?</p> <p>22 A. Correct.</p> <p>23 Q. Such as AstraZeneca or Ethypharm, correct?</p> <p>24 A. Correct.</p>
<p style="text-align: right;">Page 147</p> <p>1 anything else to analyze this situation?</p> <p>2 A. I was conscious that because of all the reasons</p> <p>3 that I already stated, it was convenient not to</p> <p>4 continue this relationship.</p> <p>5 Q. And for that reason, did you move ahead with</p> <p>6 plans with your omeprazole and lansoprazole</p> <p>7 patents?</p> <p>8 A. For a long period of time, we had been working</p> <p>9 with our formulation and our patents, and to</p> <p>10 submit a patent or obtain a patent is not</p> <p>11 something that happens from one day to another.</p> <p>12 Q. I show you a document.</p> <p>13 (Fax to Mr. Murphy from Mr. Herrera,</p> <p>14 dated June 15, 2002 was marked Exhibit</p> <p>15 Number 15 for identification.)</p> <p>16 Q. Mr. Herrera, before I discuss that document, is</p> <p>17 it true that in addition to taking time to file</p> <p>18 patents, it costs money to do the work necessary</p> <p>19 to file the patents?</p> <p>20 A. Yes.</p> <p>21 Q. It's a commitment of resources?</p> <p>22 A. Yes.</p> <p>23 Q. You have to do studies, correct?</p> <p>24 A. Correct.</p>	<p style="text-align: right;">Page 149</p> <p>1 Q. When did that work start?</p> <p>2 A. I cannot remember with an exact time.</p> <p>3 Q. How much did it cost?</p> <p>4 A. I don't know exactly.</p> <p>5 Q. You discussed this with Mr. Murphy, though,</p> <p>6 correct?</p> <p>7 A. What I informed him was that we were developing</p> <p>8 our own formulations.</p> <p>9 Q. Did Mr. Murphy agree with spending money and</p> <p>10 time and effort in that way?</p> <p>11 A. Those were my decisions.</p> <p>12 Q. Did Mr. Murphy agree with those decisions or</p> <p>13 disagree?</p> <p>14 A. Mr. Murphy has always made the comment and has</p> <p>15 told me, "The business, you run the business; I</p> <p>16 run the daily operations."</p> <p>17 Q. Did Mr. Murphy agree with your decisions to</p> <p>18 spend money and time and effort in this way?</p> <p>19 A. He didn't say the opposite to me.</p> <p>20 Q. Can you look at this exhibit now, Exhibit -- I</p> <p>21 believe it's 15? And this is a fax from you to</p> <p>22 Mr. Murphy at Bentley Pharmaceuticals; is that</p> <p>23 correct?</p> <p>24 THE WITNESS: Uh-huh.</p>

21 (Pages 146 to 149)

<p style="text-align: right;">Page 150</p> <p>1 Q. Yes?</p> <p>2 A. Yes, that's how it's stated, stated as</p> <p>3 organization.</p> <p>4 Q. And as part of your development plan, you are</p> <p>5 planning to submit and register lansoprazole,</p> <p>6 omeprazole tablets, omeprazole acuoso, and</p> <p>7 that's at June 15th, 2001, correct?</p> <p>8 A. Correct.</p> <p>9 Q. And is one of the reasons you're discussing this</p> <p>10 with Mr. Murphy so that you will be prepared in</p> <p>11 case you terminate the contract with Ethypharm?</p> <p>12 A. No.</p> <p>13 Q. What is the reason that you're registering</p> <p>14 lansoprazole, omeprazole tablets, and omeprazole</p> <p>15 acuoso in June 15th, 2001?</p> <p>16 A. This is my plan that I specifically have</p> <p>17 designed, and I'm communicating it to my</p> <p>18 president at Laboratorios Belmac, what is the</p> <p>19 product plan that could be interesting in the</p> <p>20 American market.</p> <p>21 Q. So that's a plan that involves Bentley as well</p> <p>22 as Laboratorios Belmac, correct?</p> <p>23 A. No.</p> <p>24 Q. Well, you say -- you write, "In our development</p>	<p style="text-align: right;">Page 152</p> <p>1 termination to Ethypharm, correct?</p> <p>2 A. Yes, correct.</p> <p>3 Q. And this notice indicates your intention to</p> <p>4 terminate the relationship with Ethypharm in</p> <p>5 four months, correct?</p> <p>6 MR. STEWART: Objection.</p> <p>7 A. It's not correct.</p> <p>8 Q. What is correct?</p> <p>9 A. On the letter, it was indicated the intentions</p> <p>10 of not continuing at the expiration date of the</p> <p>11 contract, and it is offered to Ethypharm the</p> <p>12 negotiation of new contracts so Ethypharm would</p> <p>13 not have any type of problems and could continue</p> <p>14 their relationships with their clients.</p> <p>15 Q. And PharmAlliance was one of those clients,</p> <p>16 correct?</p> <p>17 A. PharmAlliance got in touch with us, but</p> <p>18 PharmAlliance was one of their clients, that's</p> <p>19 correct.</p> <p>20 Q. I show you a document.</p> <p>21 (Confidentiality Agreement was marked</p> <p>22 Exhibit Number 16 for identification.)</p> <p>23 Q. Do you recognize this document?</p> <p>24 A. It's signed by me.</p>
<p style="text-align: right;">Page 151</p> <p>1 plan." When you say "our development plan,"</p> <p>2 doesn't that mean your plan with Mr. Murphy?</p> <p>3 A. No, under no concept.</p> <p>4 Q. This is about registration in the United States,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And that does not involve Bentley</p> <p>8 Pharmaceuticals, Inc.?</p> <p>9 A. What I'm communicating is that these products</p> <p>10 could be very interesting in the American market</p> <p>11 from my point of view, and I'm communicating it</p> <p>12 to my president of Laboratorios Belmac.</p> <p>13 Q. Isn't that a more interesting idea for the</p> <p>14 chairman of the board of Bentley Pharmaceuticals</p> <p>15 in the United States?</p> <p>16 MR. STEWART: Objection;</p> <p>17 argumentative, calls for speculation on the part</p> <p>18 of this witness.</p> <p>19 A. I'm communicating this to my president of</p> <p>20 Laboratorios Belmac since we are 100 percent</p> <p>21 subsidiary of Bentley Pharmaceuticals, and I'm</p> <p>22 communicating it to him with the specific point</p> <p>23 of the presence of it on the American market.</p> <p>24 Q. In November of 2001, you send a notice of</p>	<p style="text-align: right;">Page 153</p> <p>1 Q. Is it true, Mr. Herrera, that on the very same</p> <p>2 day that you sent notice of Laboratorios</p> <p>3 Belmac's intention to end the Ethypharm</p> <p>4 relationship, you signed an agreement with one</p> <p>5 of Ethypharm's clients relating to omeprazole</p> <p>6 pellets?</p> <p>7 A. And confidentiality agreement.</p> <p>8 Q. And at this point in time, you were still under</p> <p>9 contract with Ethypharm, correct?</p> <p>10 A. Correct.</p> <p>11 Q. And you would be under contract for another four</p> <p>12 months, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Do you think that that was appropriate?</p> <p>15 A. You know, the clients come to you and they ask</p> <p>16 for information as a consequence of problems</p> <p>17 that they are experiencing.</p> <p>18 Q. Is it a coincidence that you signed this</p> <p>19 confidentiality agreement on the same day that</p> <p>20 you sent the termination letter?</p> <p>21 A. That's the way I interpret it to be.</p> <p>22 MR. STEWART: Will you be at a</p> <p>23 stopping point in the next ten minutes or so?</p> <p>24 MR. BOSTWICK: Not yet.</p>

22 (Pages 150 to 153)